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EXAMINER

STIMPAK, JOHNNA

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/742,687

Applicant(s)

ALMOG ET AL.

Examiner

Johnna R. Stimpak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 29-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 29-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a non-final office action upon examination of application number 09/742,687. Claims 3, 6 and 29 have been amended, claims 23-28 were previously cancelled and claims 33-36 have been added. Claims 1-22 and 29-36 are pending and have been examined on the merits discussed below.

Response to Amendment

2. Amendments to claims 3, 6, 22 and 29 are acknowledged.

Response to Arguments

3. Applicant's arguments, see Remarks, page 7, filed 5/23/05, with respect to previous rejection of claim 8 under 35 USC 112 has been fully considered and is persuasive. The rejection under 35 USC 112, first paragraph of claim 8 has been withdrawn.

4. Examiner upholds prior rejections under 35 USC 112 and further reiterates those rejections below. Firstly, it is still not clear how a salary of a candidate who has never worked is averaged and graphed. In response to Applicant's arguments, it is now not clear if the graphed average salary is an average of all salaries for each candidate depending on an attribute or if the average salary is an average of all salaries of all candidates depending on an attribute. For example, is it the average salary of all candidates based on education background or is it an average salary of each individual candidate based on education. Clarification is required.

5. Applicant's arguments with respect to claims 1 and 6 have been fully considered but they are not persuasive. While Applicant agrees that McGovern teaches fields describing a position desired by the worker, Applicant argues that McGovern does not teach one or more fields

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describing a worker. However, McGovern teaches the job seeker selecting a personal search agent feature wherein the job seeker enters information pertaining to the position the job seeker wants. This information includes type of position, salary expectations, geographic location and the like. In addition, the information criteria pertaining to the position, such as salary requirements, education requirements, required hours per week, etc., are also entered by the hiring contact and are used to find matching job seekers. It is inherent to the matching process that if position criteria include education requirements, there must be a corresponding entry of education information from the job seeker. This education information, which is inherently information describing a worker, would be included in the personal search agent. The search agent then monitors new position postings, with criteria such as education, salary, etc., and finds job seekers with matching information stored in their search agent and notifies the job seeker, i.e., by email on a daily basis.

6. Applicant's arguments with respect to the rejections of claims 3 and 29 under 35 USC 102 (a) and (e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of McGovern and Kurzius et al.

7. In response to applicant's argument regarding claim 7, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "automatic suggestion of changes by a processor") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim specifically reads, "automatically providing by the processor...". The claim is

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interpreted as someone providing suggested changes by (use of) the processor. Prior rejections are upheld. Clarification is required.

8. Applicant's arguments with respect to the rejection of claim 16 under 35USC103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of McGovern et al, in view of Vivona, US 5,960,407.

9. Applicant's arguments with respect to the rejection of claim 22 under 35 USC 102 (a) and (e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of McGovern et al.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, there is no explanation of how to determine differentiating attributes between matching records. There is no method set forth in the specification that compares attributes

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between matching records, determines a differentiating attribute, and graphs an average salary depending on the attributes.

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear if the graphed average salary is an average of all salaries for each candidate depending on an attribute or if the average salary is an average of all salaries of all candidates depending on an attribute. For example, is it the average salary of all candidates based on education background or is it an average salary of each individual candidate based on education. Clarification is required.

14. Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is directed to performing the matching function "substantially concurrently". It is unclear how two things can occur "almost concurrently" or "partially concurrently". For purposes of examination, and since something cannot occur "almost concurrently, examiner construes this to mean the matching is done concurrently. Clarification is required.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

16. Claims 1, 2, 5-9, 12-15, 19-22, 35 and 36 are rejected under 35 U.S.C. 102(a and e) as being anticipated by McGovern et al, US 5,978,768.

As per claim 1, McGovern et al teaches storing a database including a plurality of job openings (column 9, lines 27-40 – position information is entered into the system and stored); providing a worker record which includes one or more fields describing a worker and one or more fields describing a position desired by the worker (column 13, lines 26-40 – job seeker enters information such as type of position, salary requirements, location, etc.); and automatically determining by a processor, for at least one of the records in the job opening database, whether the job opening in the record matches the position desired by the worker and whether the worker description matches the job opening in the record (column 13, lines 26-40 – the computer system searches the list of positions to determine if a match exists between any one of the positions and information entered by the job seeker and a list of matching positions is displayed).

As per claim 2, McGovern et al teaches displaying data from one or more records of the job opening database which were determined to match the position desired by the worker and to

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which the worker description matches (column 13, lines 26-40 – the computer system searches the list of positions to determine if a match exists between any one of the positions and information entered by the job seeker and a list of matching positions is displayed).

As per claim 5, McGovern et al teaches the one or more fields describing a position desired by the worker comprises a field that states a salary range desired by the worker (column 13, lines 26-40 – job seeker enters information such as type of position, salary requirements, location, etc.).

As per claim 6 (currently amended), McGovern et al teaches storing a database including a plurality of records of worker profiles (column 17, lines 10-22 – worker resumes are stored in a database); providing a description of a job opening (column 9, lines 27-40 – position information is entered into the system and stored); storing the description of the job opening in a job opening database (column 9, lines 27-40 – position information is entered into the system and stored); automatically determining by a processor, for at least one of the records in the worker database, whether the worker profile in the record matches the description of the job opening (column 13, lines 26-40 – the computer system searches the list of positions to determine if a match exists between any one of the positions and information entered by the job seeker and a list of matching positions is displayed); and automatically determining by a processor, for at least one of the worker profiles, job opening records that match the worker profile (column 13, lines 26-40 – the computer system searches the list of positions to determine if a match exists between any one of the positions and information entered by the job seeker and a list of matching positions is displayed).

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As per claim 7, McGovern et al teaches automatically providing by the processor suggested changes in the description of the job opening such that the description matches a desired set of one or more records (column 10, lines 27-46 – hiring contact can edit the position description).

As per claim 8, McGovern et al teaches storing the worker database comprises storing a database in which at least some of the records include a salary received by the worker represented by the record (column 15, lines 10-19 – worker record includes salary requirements).

As per claim 9, McGovern et al teaches storing the worker database comprises storing records which include values for a predetermined set of fields (column 13, lines 26-40 – job seeker enters information such as type of position, salary requirements, location, etc.) and providing the description of the job opening comprises providing values for fields compatible to the predetermined set of fields.(column 9, lines 27-34 –position is entered which includes the title, category and a brief or detailed description which inherently would include salary and/or location).

As per claim 12, McGovern et al teaches determining for at least one of the records whether the worker profile in the record matches the job opening description comprises determining which of a plurality of the records match the job opening description (column 17, lines 23-42 – hiring contact can select any number of resumes that match the criteria – these resumes are then viewed and scored by the hiring contact).

As per claim 13, McGovern et al teaches providing a list of the workers represented by the matching records to an employer (column 17, lines 1-22 – the records of the matching applicant are provided to the employer and stored).

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As per claim 14, McGovern et al teaches selecting the employer workers who are of interest to the employer, and indicating to the selected workers that they have been selected by the employer (column 18, lines 11-23 – hiring contact can send an email to the candidate including a message such as a form rejection letter – inherently this message could also include an indication of being selected by the employer).

As per claim 15, McGovern et al teaches indicating to the selected workers comprises marking a job opening description of the employer with a special indication in displaying lists of job opening descriptions to the selected workers (column 16, lines 14-25 – the system send the applicant a message such as an email with the names of the positions and corresponding companies to which the applicants resume is a match).

As per claim 19, McGovern et al teaches providing a different description of a job opening responsive to the determination and repeating the determining with the provided different description (column 10, lines 27-46 – hiring contact can edit the position description).

As per claim 20, McGovern et al teaches descriptions of the job openings in the job opening database comprise a plurality of fields and wherein the different description of a job opening is different from the previously provided description in substantially only one field (column 10, lines 27-46 - hiring contact can edit the position description; inherently the description would be different from the previously provided description depending on the changes made – the job description includes storage of position location – if this position is available in another location, the only difference between the two position listings would be the location field).

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As per claim 21, McGovern et al teaches displaying data from one or more worker records that were determined to match the job opening description (column 17, lines 1-22 – the records of the matching applicant are provided to the employer and stored).

As per claim 22 (currently amended), McGovern et al teaches automatically notifying the workers represented by the one or more records from which the data was displayed that the data was displayed (column 15, lines 20-28 – when matching positions are found, the remote site program controls the remote site computer to display the results).

As per claim 35, McGovern et al teaches determining for at least one of the records in the job opening database comprises determining for substantially all the job opening records in the database, whether the job opening in the record matching the position desired by the worker and whether the worker description matching the job opening in the record (column 9, lines 27-40 – position information is entered into the system and stored; column 13, lines 26-40 – job seeker enters information such as type of position, salary requirements, location, etc.; column 13, lines 26-40 – the computer system searches the list of positions to determine if a match exists between any one of the positions and information entered by the job seeker and a list of matching positions is displayed).

As per claim 36, McGovern et al teaches the determining whether the opening in the record matches the position desired by the worker and whether the worker description matches the job opening in the record are performed substantially concurrently (column 9, lines 27-40 – position information is entered into the system and stored; column 13, lines 26-40 – job seeker enters information such as type of position, salary requirements, location, etc.; column 13, lines 26-40 – the computer system searches the list of positions to determine if a match exists between

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any one of the positions and information entered by the job seeker and a list of matching positions is displayed).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over McGovern et al, US 5,978,768.

As per claim 10, McGovern et al does not explicitly teach providing the description of the job opening comprises providing range values for one or more of the compatible fields, however it is old and well known in the art of job posting websites to include salary ranges for job postings. It would have been obvious to one of ordinary skill in the art at the time of the invention to include range values for job opening description fields in McGovern et al to clarify the exact requirements or offerings of the job posting. By providing range values, for example, for salaries, the system would weed out applicants who require salaries outside of the range.

19. Claims 11, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGovern et al, in view of Puram et al, US 6,289,340.

As per claim 11, McGovern et al teaches providing the description of the job opening but does not explicitly teach stating a level of importance for one or more of the compatible fields.

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Puram teaches providing the importance or priority of the skill for the position. It would have been obvious to one of ordinary skill in the art for McGovern et al to include stating the level of importance for the job skills since this would allow for a more precise match between job description and candidate information.

As per claim 17, McGovern et al does not explicitly teaches determining for at least one of the records whether the worker profile in the record matches the job opening description comprises selecting a predetermined number of records that most closely match the job opening description. Puram teaches a search returning a specific number of matching candidates (column 7, lines 21-55). It would have been obvious to one of ordinary skill in the art at the time of the invention to include selecting a predetermined number of records that most closely match the job opening description. Since McGovern et al is directed to selecting the best candidate to fill an open position, it would have been obvious to modify McGovern et al in order to assure the best possible candidate will be chosen to fill the job position.

As per claim 18, McGovern et al teaches determining for at least one of the records whether the worker profile in the record matches the job opening description but does not explicitly teach setting a similarity range to the job opening description such that records falling in the similarity range are considered matching the job opening description. Puram teaches scoring the candidate's skills and only returning those candidates who fall within a specified score without exceeded the maximum score. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a similarity range to ensure the best candidate would be selected to fill an open position. It would have been obvious to modify McGovern et al in order to assure the best possible candidate will be chosen.

20. Claims 3, 4 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGovern et al, US 5,978,768 in view of Kurzius et al, US 6,385,620.

As per claim 3 (currently amended), McGovern et al does not explicitly teach displaying to the worker a list of job opening records in which each record is displayed along with an indication of an attitude of an employer generating the job opening record toward the worker record. However, Kurzius et al teaches displaying to the candidate (worker) an indication of interest from the employer regarding a position (column 6, lines 43-48). Since both McGovern et al and Kurzius et al both teach matching candidates to jobs offered by employers and conveying the results, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify McGovern et al to include an indication of interest of an employer when the job record is displayed to the worker. This display of interest allows the worker to easily be notified that the employer is either interested or not interested thereby making the process of finding a job more efficient since the worker would only pursue those positions wherein the employer indicates interest.

As per claim 4, McGovern et al does not explicitly teach the indication of the attitude of the at least one employer comprises an indication of whether the description of the worker was viewed by the at least one employer. However, Kurzius et al teaches displaying to the candidate (worker) an indication of interest from the employer regarding a position, which inherently means the worker description, was viewed by the employer. Since both McGovern et al and Kurzius et al both teach matching candidates to jobs offered by employers and conveying the results, it would have been obvious to one of ordinary skill in the art at the time of the invention

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to modify McGovern et al to include an indication that the employer viewed the worker description when the job record is displayed to the worker. This display indicating the worker description was viewed allows the worker to be notified that the employer is potentially interested or not interested thereby making the process of finding a job more efficient since the worker would only pursue those positions wherein the employer indicates interest.

As per claim 29 (currently amended), McGovern et al teaches storing a database including a plurality of job openings (column 9, lines 27-40 – position information is entered into the system and stored); providing a worker record which includes one or more fields describing a worker (column 13, lines 26-40 – job seeker enters information such as type of position, salary requirements, location, etc.). McGovern et al does not explicitly teach displaying information from one or more opening records comprises displaying each record along with an indication of an attitude of an employer generating the job opening record toward the worker record.

However, Kurzius et al teaches displaying to the candidate (worker) an indication of interest from the employer regarding a position (column 6, lines 43-48). Since both McGovern et al and Kurzius et al both teach matching candidates to jobs offered by employers and conveying the results, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify McGovern to include an indication of interest of an employer when the job record is displayed to the worker. This display of interest allows the worker to easily be notified that the employer is either interested or not interested thereby making the process of finding a job more efficient since the worker would only pursue those positions wherein the employer indicates interest.

As per claim 30, McGovern et al teaches displaying the information comprises displaying information from at least one record along with an indication that the record was viewed by the employer (column 17, lines 44-58 – employer can rate or score applicant resumes and is displayed as a scoring mark next to the resume – inherently if the resume is scored, it was viewed by at least one employer).

As per claim 31, McGovern et al teaches displaying the information comprises displaying information from at least one record along with an indication that the employer is interested in meeting the worker (column 18, lines 11-23 – hiring contact can send an email to the candidate including a message such as a form rejection letter – inherently this message could also include an indication of being selected by the employer).

As per claim 32, the combination of McGovern et al and Kurzius et al teaches displaying information according to the attitude of the employer (column 17, lines 44-58 – employer can rate or score applicant resumes and is displayed as a scoring mark next to the resume) but does not explicitly teach displaying the information comprises displaying information in different colors according to the attitude of the employer. However it is old and well known to color-code indicating marks as a way to differentiate between the marks. For instance it would have been obvious to indicate the attitude of the employers in McGovern et al, in Figure 31, with colors such as a green star (meaning go ahead with this applicant), a red X (meaning stop – no longer interested in this applicant). The addition of color-coding to the McGovern et al system would allow for a more user-friendly system since colors are more eye-catching than just symbols alone.

As per claim 33, McGovern et al teaches displaying the information comprises displaying a plurality of job opening records concurrently (column 16, lines 14-25 – upon determining that a

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match has occurred, the computer system emails the job seeker with a list of the names of the positions and their corresponding companies).

As per claim 34, McGovern et al teaches displaying the information comprises displaying to a worker (column 16, lines 14-25 – upon determining that a match has occurred, the computer system emails the job seeker with a list of the names of the positions and their corresponding companies).

21. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over McGovern et al, US 5,978,768 in view of Vivona, US 5,960,407.

As per claim 16, McGovern et al teaches gathering applicant data (i.e., attributes) from their resumes and using this data to match job seekers with available positions, but does not explicitly teach determining one or more attributes which differentiate between matching records and displaying a graph which shows an average salary of the matching records depending on the one or more attributes. Vivona however teaches differentiating attributes such as years of experience (column 7, lines 42-53) and using those differentiating attributes to determine the optimum salary amount an employee should have. Vivona then teaches averaging salary amounts for a type of job and graphing salary amounts versus years of experience (column 18, lines 38-67). Since McGovern et al is directed to collecting working information and job description information and matching and selecting the best worker and Vivona is directed to collecting worker information including salary level for a type of job and level of experience to determine the best salary it would have been obvious to one of ordinary skill in the art at the time

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of the invention to modify McGovern et al's matching system to include Vivona's graphical display in order to enhance the selection of the best worker.

Conclusion

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Stimpak whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS
8/3/05

Susanna Diaz
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Au 3623